

BUILDINGS AND ROADS BRANCH

The 16th January, 1975

No. 317-PWIII(5)-75/1455.—Consequent upon his appointment as Joint Director (Architecture) in the Research, Designs and Standards Organisation, Lucknow, Shri V. K. Punj, Architect, has been relieved of his duties with effect from 6th December, 1974 (afternoon).

2. Shri S. K. Midha, Architect, Department of Architecture, Haryana, has assumed the dual charge of the post of Shri Punj with effect from 6th December, 1974 (afternoon) till further orders.

S. N. BHANOT,

Commissioner & Secy.

Dated Chandigarh, the 13th January, 1975.

LABOUR DEPARTMENT

The 9th December, 1974

No. 11606-4 Lab-74/288.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workman and the management of M/s Guru Nanak Woollen Finishing Works, Panipat.—

BEFORE SHRI O.P. SHARMA, PRESIDING OFFICER, LABOUR COURT, HARYANA, ROHTAK

Reference No. 68 of 1973

between

SHRI PIARE LAL SINGH AND THE MANAGEMENT OF M/S GURU NANAK WOOLLEN FINISHING WORKS, PANIPAT

Present—

Shri Onkar Parshad, for the workman.

Shri Surinder Kaushal, for the management.

AWARD

Shri Piare Lal Singh, workman concerned was in the service of M/s Guru Nanak Woollen Finishing Works, Panipat, since 1st August, 1967. He was working as a Milling Machineman being an unskilled worker. The management terminated his services w.e.f. 25th December, 1971, allegedly on account of his trade union activities and without any justification. He demanded reinstatement but without success. Feeling aggrieved, he gave the demand notice, dated 30th December, 1971, whereupon conciliation proceedings were started which also ended in failure.

On receipt of the failure report from the Conciliation Officer, the Governor of Haryana, referred the dispute for adjudication to this court, in exercise of the powers conferred by clause (c) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947,—*vide* order No. 1D/KNL/76-A-73/43985-89, dated 16th November, 1973, with the following term of reference:—

“Whether the termination of services of Shri Piare Lal Singh was justified and in order? If not, to what relief is he entitled?”

The parties put in their respective pleadings. Shri Piara Lal Singh, workman concerned, reiterated his demand for reinstatement and payment of back wages as earlier raised through the demand notice which forms part of the reference with the allegations that in September, 1970 a union of the workers had been formed and he had been taking keen interest in the activities of the union being a member of the Working Committee. It was further alleged that the management was not paying bonus beyond the minimum 4 per cent and on the demand notice given by the workmen an agreement had been arrived at before the Conciliation Officer that bonus would be paid at 6½ per cent. It was further urged that the management was not paying even minimum wages fixed by the Government and a demand had been raised for the payment of the difference in wages. According to him, the management got displeased with him on account of these activities and his services were terminated without any reasonable ground.

On the other hand, the management contested the claim of the workman on the ground that, as a matter of fact, he had absented himself from duty from 18th December, 1971 and did not report for duty inspite of two letters written to him on 21st December, 1971 and 24th December, 1971 and his name was, therefore, struck off the rolls and necessary intimation was sent to him on 1st January, 1972. Beside-contesting the claim of the workman on merits, the management raised a preliminary objection that the demand the subject matter of the present reference, had not been raised direct on the management and rejected by it so as to constitute an industrial dispute within the meaning of the law.

From the pleadings of the parties the following 3 issues arose for determination in the case:

1. Whether the demand the subject matter of the present reference was not first raised on the management and rejected by it? If so, with what effect?
2. Whether it is a case of self abandonment of service by the workman concerned?
3. Whether the termination of services of Shri Piare Lal Singh was justified and in order? If not, to what relief is he entitled?

The management has examined one witness Shri Gurcharan Singh, Manager of the factory who has sworn testimony to the above pleas raised in the written statement. According to him, no demand had been received direct from the workman concerned and it was for the first time from the Conciliation Officer that the demand notice Exhibit M.7 was received,—vide his covering letter Exhibit M.8. He has proved 6 more documents including copies of the letters dated 21st December, 1971 and 24th December, 1971, written to the workman Exhibits M.1 and M.2, certificate of postings Exhibits M.3 and M.4, copy of the letter, dated 1st January, 1972, written to the workman intimating that his name had been struck off the rolls due to his unauthorised absence from duty, Exhibit M.5, which was sent under the certificate of posting Exhibit M.6 and was also got exhibited on the Notice Board. The attendance register, Exhibit M.9, containing the relevant entry in respect of the workman concerned, who is marked absent from 18th December, 1971 onwards Exhibit M.10, the despatch register Exhibit M.11, containing the relevant entry regarding the despatch of the letter, dated 1st January, 1972, to the workman, Exhibit M.12, have been tendered in evidence.

The workman concerned has himself come into the witness-box and examined two witnesses, namely, Shri Karan Singh, General Secretary and Shri Mohinder Kumar, President of the Union, W.W.1 and W.W.3, respectively. The documentary evidence relied upon by the workman consists of the copy of the order, dated 8th February, 1972, of the Authority under the Payment of Wages Act, Exhibit W.1., copy of the complaint, dated 25th November, 1971, made to the Labour Inspector, Panipat, Exhibit W.2, copy of the order of the Authority under the Minimum Wages Act, Exhibit W.3.

Arguments have been addressed on both sides and I have given a careful thought to the evidence on record, oral as well as documentary.

As already observed, the management has contested the claim of the present workman mainly on two grounds, firstly, that he had himself abandoned service by remaining absent from duty from 18th December, 1971 onwards and had not reported for duty inspite of two letters written to him on 21st December, 1971 and 24th December, 1971 and secondly, that the demand the subject matter of the present reference, had not been first raised on the management and rejected by it. The burden of the first issue was on the management which has been fully discharged as would be clear from the statement of the Manager of the Factory Shri Gurcharan Singh, M.W.1, read with the relevant entries in the attendance register and copies of the letters, Exhibit M.1., M.2. and M.5, written to the workman under certificate of postings. There is no reasonable rebuttal of this evidence. Since the workman concerned has absented himself from duty for 14 days without leave or proper authorisation, the management was well within its right to strike his name off the rolls of which intimation was duly given to him. In the circumstances, the question of the *mala fides* of the management in taking the impugned action of removing his name from the rolls due to any union activities does not arise and his authorised representative has not been able to satisfy me to the contrary.

With regard to the second plea taken by the management also the law is well settled. As held in the oft-quoted judgment of Hon'ble the Supreme Court in the Sindhu Resettlement Corporation Case a demand has first to be raised on the management and rejected by it so as to constitute an industrial dispute, as defined under section 2-J of the Industrial Disputes Act, 1947, before the matter is taken up with the Government. The burden of this issue was on the workman but after a close scrutiny of the evidence produced on both sides, I am constrained to observe that he has simply failed to discharge this burden. No letter or demand notice is proved to have been given to the management direct excepting the demand notice whereupon conciliation proceedings were started and according to the statement on oath of the Factory Manager, M.W.1., copy of the demand notice was, for the first time, received from the Conciliation Officer, Exhibit M.7 along with the covering letter, Exhibit M.8. The communication of the demand in question by the Conciliation Officer is not sufficient to satisfy the requirement of the law, as laid down in the above mentioned authority. The demand ought to have been raised first on the management and rejected by it before the matter was taken up for conciliation, but that was not done in the

instant case as already pointed out. On account of the non-compliance with the requirement of the law as, discussed above, it could not be held that any industrial dispute existed between the parties which could validly be referred for adjudication to this court.

That disposes of issues Nos. 1 and 2 which, on the facts established in the case and for the reasons aforesaid are decided against the workman concerned and in favour of the management holding that it is clearly a case of self abandonment of service by the workman concerned and that the demand, the subject matter of the reference had not been properly raised so as to constitute an industrial dispute within the meaning of the law.

In view of my above findings on issues Nos. 1 and 2, it is not necessary to go into issue No. 3. Even if it be assumed, for the sake of argument that the demand had been properly raised, it being a case of self abandonment of service by the workman concerned, the management is not called upon to justify the termination of his services. In fact, the termination of his services was not brought about by any act or action on the part of the management, it was the result of his own conduct in absenting himself from duty without any proper authorisation and not attending to his work in spite of two letters written to him by the management, as already discussed. The issue is held accordingly.

As a result of my above findings on the issues involved in the case the workman concerned is not entitled to any relief by way of reinstatement or payment of back dues and the reference itself stands to be rejected for want of an industrial dispute, as defined under section 2-J of the Industrial Disputes Act. The award is made accordingly but without any order as to costs.

Dated the 25th November, 1974.

O. P. SHARMA,
Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 2820, dated 2nd December, 1974.

Forwarded (four copies) to the Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,
Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 11560-4Lab-74/343.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workman and the management of M/s Om Weaving Factory, Sonapat:—

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, LABOUR COURT, HARYANA, ROHTAK

Reference No. 40 of 1972

between

SHRI CHHANGAR LAL AND THE MANAGEMENT OF M/S OM WEAVING FACTORY,
SONEPAT

Present :—

Shri Sagar Ram Gupta, for the workman.

Shri R. C. Sharma, for the management.

AWARD

This reference under clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 has arisen out of the following facts:—

Shri Chhangar Lal the present claimant gave the demand notice to the Manager of M/s Om Weaving Factory, Sonapat with the allegations that he had been working as a Jobber in the factory and had proceeded on leave due to the illness of his son who ultimately expired and after performing the necessary death ceremony, he reported for duty in the factory on 10th July, 1971 but he was refused to work. It was further urged that the termination of his services was illegal and he was entitled to reinstatement and payment of back dues. There being no satisfactory response from the management, the matter was taken up for conciliation which also ended in failure.

On receipt of the failure report from the Conciliation Officer, the Governor of Haryana, referred the dispute for adjudication to this court by order No. ID/RK/184-A-71/2089, dated 27th January, 1972, with the following term of reference :—

“Whether the termination of services of Shri Chhangar Lal was justified and in order ? If not, to what relief is he entitled ?”

The parties put in their respective pleadings. The workman concerned reiterated his claim as earlier raised through the demand notice which forms part of the reference. It was contended that he had not been given any charge-sheet nor was any enquiry held against him and that he had proceeded on leave due to the illness of his son and the leave had been got extended. It was further urged that when he reported for duty, he was not given any work and his services had been terminated by the management in an illegal manner. The management, on the other hand, contested his claim mainly on the ground that he had never been in its employment during the period in question.

The following two issues arose for determination in the case:—

- (1) Whether Shri Chhangar Lal is not a workman of M/s Om Weaving Factory, Bahalgarh Road, Sonapat ?
- (2) Whether the termination of services of Shri Chhangar Lal was justified and in order ? If not, to what relief is he entitled ?

The management has examined one witness Shri Shanker Dass Time-keeper who has sworn testimony on the basis of the entries in the attendance register for the year 1970-71 to the fact that Shri Chhangar Lal was not in the service of the management during this period and his name did not appear in the attendance register. In cross-examination, he has admitted that there are 3 other concerns within the same premises where the Om Weaving Factory is situated. However, he has shown his ignorance about the Proprietors of the other three concerns and stated that they are tenants of M/s Om Weaving Factory.

The workman concerned has made his own statement. According to him, he was not given any attendance card. In his cross-examination he has denied his signatures on the letter, dated 15th July, 1971 written to him by the management of M/s Rajinder Weaving Factory Ex. M.2. and on the A.D. receipt Ex. M.1 and the receipt of payment of Rs 300 to him by the said management on 2nd August, 1971,—vide receipt Ex. M.3. He had also denied having ever worked in that concern.

Four more witnesses have been examined by Shri Chhangar Lal including W.W. 2 S/shri Lajpat Rai Panday a worker of Om Weaving Factory who has produced his attendance card Ex. W.W. 2/1, Vishva Nath a worker of Gauri Weaving Factory Sonapat W.W. 3, Dharam Vir, Supervisor, Kishore Textile Mills, Sonapat W.W. 4, Shanker Dass, Time-Keeper, Rajinder Weaving Factory, Sonapat W.W. 5. S/Shri Lajpat Rai Pandey, Vishva Nath and Dharam Vir have unanimously deposed that Shri Chhangar Lal was working in the Om Weaving Factory, Sonapat. According to their statements, the different concerns named Om Weaving Factory, Kishore Textile Mills, Gauri Textiles, Surindera Textiles and Rajindera Textile Factory and Jagdish Weaving Factory are situated in the same premises, although there are different buildings and different gates for the entry and the exit of the workers in each factory.

According to Shri Shanker Dass, Time-keeper of Rajinder Weaving Factory, Sonapat W.W. 5, the name of Shri Chhangar Lal appeared in the attendance register from 1st February, 1971 to 20th May, 1971, as a Jobber but he could not say if this workman had been transferred to any sister concern after 20th May, 1971. In cross-examination he has stated that Shri Chhangar Lal had proceeded on leave from 6th to 15th May, 1971 and thereafter he had absented himself from duty and his name was, therefore, struck off the rolls on 27th May, 1971, no leave application or medical certificate having been received during this period. The witness has further deposed that he had come in the month of August, 1971 and received his dues after settling his account,—vide receipt copy Ex. M.3.

The case has been fully argued on both sides and I have given due consideration to the facts on record. The plea of the management that the present workman was not in its service during the period in question appears to be correct and has been sustained by oral as well as documentary evidence. It has no doubt come in evidence that there are several concerns situated in the same premises namely Om Weaving Factory, Rajinder Weaving Factory, Jagdish Weaving Factory, Gauri Textiles, Surinder Textiles, Kishore Textile Mills which according to W.W. 4 Shri Dharambir Supervisor have their different buildings with different gates for the entry and exit

of the workers of each concern: The question which is of vital importance and arises for consideration in the case, however, is whether the present workman was in the service of M/s Om Weaving Factory or not. In view of the specific denial of the management on this point the burden was on him to establish this fact by leading cogent and convincing evidence. He has no doubt examined 2 witnesses W.W. 2 Shri Jajpat Rai Pandey and W.W. 3 Shri Vishva Nath who have deposed that they had seen him working in Om Weaving Factory but their oral testimony stands contradicted by the statement on oath of W.W. 5 Shri Shanker Dass examined by the workman himself read with the documents Exs. M. 2 and M. 3 produced by the management. According to the statement of Shri Shanker Dass, Shri Chhangar Lal was in the service of M/s Rajinder Weaving Factory and after having proceeded on leave from 6th to 15th May, 1971 he did not report for duty nor was any application received from him for the extension of his leave. He had come in August, 1971 and collected his dues amounting to Rs 300,—*vide* receipt duly signed by him, copy Ex. M.3. There is further corroborative evidence on this point in the statement of M.W. 1 Time-Keeper of Om Weaving Factory who has deposed on the basis of the attendance register wherein the name of Shri Chhangar Lal does not appear and the letter, dated 15th July, 1971 Ex. M.2 written to him by the management of Rajinder Weaving Factory intimating that his services had been terminated with effect from 17th May, 1971 because he had remained absent from duty without leave and intimation of the same had been given to him,—*vide* letter, dated 26th May, 1971 which was received by him on 28th May, 1971.

So, after taking into consideration evidence on record, oral as well as documentary, produced on both sides, I am quite clear in my mind that the present workman was, in fact, an employee of M/s Rajinder Weaving Factory, Sonapat and not of the present concern known as Om Weaving Factory, Sonapat although situated in the same premises. In other words, he was not a workman of the said concern as defined under section 2-S of the Industrial Disputes Act, 1947 and, as such, no industrial dispute existed between the parties which could be referred for adjudication.

In view of the facts discussed above, issue No. 1 is decided against the workman and in favour of the management. Issue No. 2 does not arise for consideration for the simple and obvious reason that he had since not been in the service of the present management, the question of the termination of his services by it did not arise and it could not be called upon to justify the termination of his services which, in fact, had taken place allegedly due to his unauthorised absence from duty in the other concern Rajinder Weaving Factory, Sonapat where he was actually working. The issue is held accordingly.

In the result, Shri Chhangar Lal, the present claimant is not entitled to any relief by way of reinstatement or payment of back dues in the present reference which itself is bad in law and without jurisdiction for the detailed reasons given above. The award is made accordingly. There would, however, be no order as to costs.

Dated the 26th November, 1974.

O.P. SHARMA,
Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 2817, dated 2nd December, 1974.

Forwarded (four copies) to the Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,
Presiding Officer,
Labour Court, Haryana, Rohtak.

No. 11605-4Lab-74/346.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workman and the management of Haryana Roadways, Gurgaon.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, LABOUR COURT, HARYANA,
ROHTAK

Reference No. 145 of 1971

between

SHRI NET RAM AND THE MANAGEMENT OF HARYANA ROADWAYS, GURGAON

Present.—

Shri C.B. Kaushik, for the workman.

Shri K. L. Piplani for the management.

AWARD

Shri Net Ram workman concerned was in the service of Haryana Roadways, Gurgaon as a Conductor. His services were terminated with effect from 1st April, 1970. Feeling aggrieved, he gave the demand notice on 28th September, 1970 asking for reinstatement and payment of back dues with the allegations that the termination of his services had been brought about in an illegal manner and without any justification. The management did not accept his demand. This gave rise to an industrial dispute. Conciliation proceedings were started which also ended in failure.

On receipt of the failure report from the Conciliation Officer, the Governor of Haryana, in exercise of the powers conferred by clause (c) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947, referred the dispute for adjudication to this court,—*vide* order No. ID/GG/91-C-70/24527-31, dated 2nd August, 1971, with the following terms of reference:—

“Whether the termination of services of Shri Net Ram was justified and in order? If not, to what relief is he entitled?”

The parties were called upon to put in their respective pleadings. The management contested the claim of the workman mainly on the ground that he had been guilty of mis-conduct in the discharge of his duties and the termination of his services had been effected after holding a proper departmental enquiry in which the charge of mis-appropriation of Government money had been duly established. It was further urged that the workman was since governed by the Punjab Civil Service Rules, the reference of the dispute under the Industrial Disputes Act, 1947 was not competent.

The workman controverted the above allegation of the management. The charge of mis-appropriation of Government money was denied and it was further contended that no proper enquiry had been held into that charge levelled against him by the management. He reiterated his claim for reinstatement and payment of back dues as earlier raised through the demand notice, dated 28th September, 1970 which forms part of the reference.

By order, dated 23rd December, 1971, my learned predecessor repelled the objection of the management regarding the invalidity of the reference and, therefore, the only issue that arose for determination in the case was as per the order of reference stated above.

The management has relied upon the departmental enquiry alleged to have been conducted against the workman and the original records of the enquiry proceedings and documents relating thereto have been produced. The Enquiry Officer, Shri Mohinder Pal Singh, Station Supervisor, Haryana Roadways now posted at Kaithal has also been examined. He has proved the letter of his appointment as Enquiry Officer Ex. MW.1/1, the record of the enquiry proceedings Ex. M.W. 1/2, his findings of guilty against the workman,—*vide* his report Ex. M.W. 1/3. Some other documents marked A to F being copy of the show-cause notice, telegram received from the workman, order of the General Manager extending the period for the submission of the representation by the workman to the show-cause notice, another order permitting him to inspect the records of the enquiry, further extension of the period of the inspection of the record and the final order of dismissal have been tendered in evidence.

On the other hand, Shri Net Ram workman concerned has made his own brief statement without producing any other evidence, oral or documentary. According to him, no proper enquiry had been conducted and he had not been given any opportunity to produce his defence.

The case has been well argued on both sides and I have very carefully gone through the entire evidence on record.

As already observed, the case for the management is that the present workman had been found guilty of the charge of mis-conduct of mis-appropriating Government money and the impugned action of termination of his services had been taken after holding a proper enquiry against him. In view of the specific denial of the workman and his contention that no just and proper enquiry had been conducted in the case, the burden was naturally upon the management to establish his fact by bringing on record cogent and conclusive evidence. After giving a careful thought to the material on record, I am of the considered view that the management has fully succeeded in discharging this burden. The charge against Shri Net Ram Conductor was that on 27th September, 1969 while he was on duty as a Conductor on bus No. H.R.G. 415 on route No. 75 (from Khandora to Rewari), the bus was checked near village Bharawas and it was found that he had charged the fare from the passengers amounting to Rs. 4.90 without issuing the tickets to them. Shri Bal Krishan Kaushik, Inspector who had checked the bus submitted his report to the Authorities alongwith the un-punched tickets he had taken from the Conductor. Shri Net Ram was given the charge-sheet about this act of mis-appropriation of the Government money and after considering his explanation, Shri Mohinder Pal Singh, Station Supervisor, Gurgaon was appointed as the Enquiry Officer, to hold the enquiry against him into the above charge of mis-conduct,—*vide* order, dated 14th November, 1969 of the General Manager Ex. M.W. 1/1 on record. A perusal of the enquiry proceedings Ex. M.W.1/2 read with the report of the Enquiry Officer Ex. M.W. 1/3 leaves no doubt in concluding that the enquiry was held properly in the presence of Shri Net Ram and after giving him full opportunity of cross-examining the witnesses examined on behalf of the management. He had also been given the oppor-

tunity to produce his defence, but inspite of getting a suitable adjournment for this purpose, he did not produce any defence. The enquiry proceedings, are signed by him. In view of all this his bald statement, without any corroborating evidence, that the enquiry was not properly held carries no weight. He has simply failed to show that the Enquiry Officer had violated any principle of natural justice in conducting the enquiry.

It has further been established in the case that after considering the finding of guilty given against the present workman by the Enquiry Officer, the General Manager of the Haryana Roadways, Gurgaon had given him the final show-cause notice before passing the order of the termination of his services and for this purpose he had been given ample opportunity to inspect the enquiry record which, for the reasons best known to him, was not availed of nor does it appear that he had filed any representation against the proposed action of termination of his services.

It would thus appear that the workman concerned in the present case was guilty of a serious charge of mis-conduct of mis-appropriating Government money in the discharge of his duties as a Conductor and this charge had been duly proved against him in a just and proper enquiry held after giving him adequate and reasonable opportunity of defending himself. It is immaterial that the amount involved was not much and this fact does not in any way mitigate the gravity of the charge of mis-conduct levelled against him. It has to be borne in mind that such acts of mis-conduct are not always detected. In the circumstances, the General Manager of the Roadways after taking into consideration the facts and the circumstances of the case was perfectly justified in terminating the services of Shri Net Ram workman concerned. I do not find any thing wrong with the enquiry held in the case or the punishment awarded to the workman. His learned representative has not been able to satisfy me to the contrary.

So, for the reasons aforesaid, the issue involved is found against the workman holding the impugned termination of his services to be justified and in order and, in the result, he is not entitled to any relief by way of reinstatement or payment of back dues. The award is made accordingly, but there would be no order as to costs.

Dated 27th November, 1974.

O. P. SHARMA,
Presiding Officer, Labour Court, Haryana,
Rohtak.

No. 2819, dated 2nd December, 1974.

Forwarded (four copies) to the Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,
Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 11621-4Lab-74/811.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workmen and the Management of M/S Sham Ice, Oils and General Mills, Panipat.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA,
FARIDABAD

Reference No. 39 of 1974

Between

THE WORKMAN AND THE MANAGEMENT OF M/SSHAM ICE OIL AND GENERAL
MILLS, PANIPAT

Present.—Shri Onkar Parshad for the workman.

Shri Surinder Kaushal for the management.

AWARD

This reference under clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, has arisen out of the following facts.

Shri Mohinder Kumar workman concerned was in the service of M/S Sham Ice Oil and General Mills, Panipat as a Driver in the Ice Plant. The Ice Plant having been closed sometimes in June, 1971. His post as a Driver was rendered surplus and he was, therefore, brought under retrenchment with effect from 15th June.

1971. Feeling aggrieved, he raised a dispute for reinstatement and payment of back dues alleging that the retrenchment of his services had been effected in an illegal manner without complying with the requirements of section 25 F of the Act. This dispute was referred for adjudication to this Tribunal and registered as Reference No. 20 of 1972, the term of reference being as under :—

Whether the retrenchment of Shri Mohinder Kumar was justified and in order ? If not, to what relief is he entitled ?

After hearing the parties the award in the aforesaid reference was made on May, 31, 1973 holding (1) that the Ice Plant where Shri Mohinder Kumar workman concerned was working as a Driver had been closed for reasons beyond the control of the management due to lack of business and break down of the machinery. (2) that on account of the closure of the Ice Plant the post of the Driver in the Plant had become surplus. (3) that the Ice Plant had not been re-started. (4) that the retrenchment of the workman was although brought about due to unavoidable reasons the management had not complied with the requirements of the law by not paying the retrenchment compensation to him to which he was entitled, there being no question of his reinstatement for want of the post of Driver. (5) that the workman had declined the alternative job of attendant or labourer in some other department offered to him by the management.

On the above findings Shri Mohinder Kumar workman concerned was not entitled to the relief of reinstatement or re-employment but the management was directed to pay to him retrenchment compensation, notice pay etc., as contemplated under section 25 FFF of the Industrial Disputes Act, 1947, and the award was made accordingly.

He, however, gave another demand notice to the management alleging that the Ice Plant had since been re-started, he had the preferential right for employment as Driver. The management refuted this allegation and did not accept his demand. The matter was taken up for conciliation which also ended in failure. The dispute has, therefore, been referred for adjudication by order No. ID/KNL/165-D-73/7549, dated 22nd March, 1974 of the Governor of Haryana, with the following terms of reference.

Whether the action of the management in not re-employing Shri Mohinder Kumar on re-starting of Ice Plant of the Factory is justified and in order ? If not, what relief is he entitled to ?

Usual notices were given to the parties and they put in their respective pleadings. The workman concerned had reiterated his claim for re-employment alleging that after closing the Ice Plant the management had illegally brought him under retrenchment on account of his union activities while the remaining workers in the Ice Plant had been provided in the finishing department. It was further urged that the Ice Plant had been re-started in March, 1973 but some other persons had been re-employed ignoring the right of the present workman. On the other hand, the management has contested the claim of the workman controverting his above allegation pleading *inter alia* that since Civil Writ No. 4253 of 1973 has been filed by the present workman against the award, dated May, 31, 1973 made in the previous reference which is still subjudice, he is not competent to raise the dispute again. The plea of *res-judicata* has also been taken and it has further been urged that the dispute has not been properly espoused.

From the pleadings of the parties, the following issues arose for determination in the case.

- (1) Whether the present reference is barred by *res-judicata* ? (on management).
- (2) What is the effect of the Writ Petition No. 4253 of 1973 pending before the High Court for the States of Punjab and Haryana at Chandigarh against the award of this Tribunal in reference No. 20 of 1972 ?
- (3) Whether the present dispute has, been properly espoused as required by law ? If not, with what effect ? (on workman) (Onuns objected to).
- (4) Whether the action of the management in not re-employing Shri Mohinder Kumar on re-starting of Ice Plant of the factory is justified and in order ? If not, what relief is he entitled to ?

Shri Mohinder Kumar has made his own statement besides examining Shri Karan Singh, Secretary of the Mechanical and Textile Mazdoor Sangh Panipat. The documents brought on record or admitted on behalf of the workman include the letter dated August, 8, 1973 of the management addressed to the Conciliation Officer, Panipat Ex. WW1/1, the demand notice dated 12th September, 1973 Ex. W.W. 1/2, the report of the Conciliation Officer, Ex. W.W. 1/3. The management has brought on record only copy of the previous award dated May 31, 1973 in reference No. 20 of 1972 referred to above Ex. M.1 and copy of the Civil Writ Petition No. 4253 of 1973 filed by the present workman before the High Court for the States of Punjab and Haryana at Chandigarh Ex. M.2. Shri Surinder Kaushal authorised representative of the management has also come into the witness box and made a statement on oath that although the Ice Plant has been re-started but there is no job of the Driver nor has any Driver been appointed in the Plant.

Arguments have been addressed on both sides at sufficient length and I have given a careful thought to the matter in issue. As would be clear from the facts stated above, which are more or less admitted, Shri Mohinder Kumar the present workman had challenged his retrenchment in the previous reference in which the award was made holding the retrenchment to have been brought about on account of the closure of the Ice Plant due to circumstances beyond the Control of the management for want of business and on account of the break down of the machinery. It was further held that the management had since not complied with the mandatory provision of the law with regard to the payment of the retrenchment compensation, notice pay, etc, the workman was entitled to the same but not to the relief of reinstatement or re-employment for the reasons that there was no job of the Driver and he had declined the offer of the management for appointment as an attendant or the labourer in some other department. He was, however, not satisfied with the relief awarded to him and had preferred a Civil Writ Petition which is admittedly still pending before the High Court. The whole question of the validity or otherwise of the impugned retrenchment and the demand of the workman for reinstatement has since to be examined by the Hon'ble High Court in the said Writ Petition filed by the workman himself, he is manifestly not competent to re-agitate the question here by raising a fresh dispute so long as the matter is subjudice before the High Court in the said Writ Petition against the award in the previous reference. The learned representative of the workman has not been able to satisfy me to the contrary. Issue No. 2 is accordingly decided against the workman and in favour of the management.

In view of my above findings on issue No. 2 I am not called upon to go into the other issues involved in the case and for the reasons aforesaid the present reference stands to be rejected as being not valid and I hold accordingly. There shall be no order as to costs.

Dated 15th November, 1974.

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana, Faridabad.

No. 1650, dated 20th November, 1974.

Forwarded (four copies) to the Secretary to Government Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated 20th November, 1974.

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 11616-4Lab-74/809.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak in respect of the dispute between the workmen and the Management of M/s H. M. Mehra & Co., Kundli.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, LABOUR COURT, HARYANA,
ROHTAK

Reference No. 34 of 1973

between

SHRI BHARAT PARTAP SINGH AND THE MANAGEMENT OF M/S H. M. MEHRA &
COMPANY, KUNDLI

Present :

Shri H. L. Mehra for the management.

Nemo for the workman.

AWARD

Shri Bharat Partap Singh workman concerned was in the service of M/s H. M. Mehra & Company, Kundli as an Assistant Machine Operator since 1968. According to him, his services had been terminated in the month of March, 1971 on the false ground of closure of the factory while, infact, he continued to work and draw his wages on vouchers. The Industrial Tribunal, Haryana had also made an award on 23rd June, 1972, reinstating 10 workers of the factory with full back wages holding the said closure to be illegal. However, by verbal order

of Shri Ram Lagan Dubey, Engineer his services were again terminated on 7th October, 1972 without any justification and in complete disregard of his seniority over S/Shri Suraj Narain and Murli Dhar who had been retained in service. It has further been alleged by him that the management had even made fresh recruitments of S/shri Markanda Ram Dhugal, Jawahar Singh, Vidya Sagar and Krishan but their was no response to his demand for reinstatement which gave rise to an industrial dispute. The matter was taken up for conciliation which also ended in failure.

On receipt of the failure report from the Conciliation Officer, the Governor of Haryana, in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, referred the above dispute for adjudication to this court,—*vide* order No. ID/RK/163-A-73/15185-89, dated 3rd May, 1973, with the following term of reference :—

“Whether the termination of services of Shri Bharat Partap Singh was justified and in order ? If not, to what relief is he entitled ?”

The parties put in their respective pleadings. The workman reiterated his claim for reinstatement as stated above. The management, on the other hand, contested his claim on the ground that he had, infact, submitted his resignation on 16th June, 1972 and received his dues in full and final settlement of his entire claims including the right of reinstatement or re-employment. This was denied by the workman in his replication.

The following issues arose for determination in the case :—

- (1) Whether Shri Bharat Partap Singh workman concerned had tendered his resignation and received payment of his dues in full on 16th June, 1972 as alleged by the management ?
- (2) In case issue No. 1 is not proved, whether the termination of services of Shri Bharat Partap Singh was justified and in order ? If not, to what relief is he entitled ?

The management has examined the Partner Shri Harbans Lal Mehra M.W. 1 who has made a detailed statement about the service of this workman and his final resignation and receipt of his full dues. He has proved five documents including the appointment letter of the workman Ex. M.1, the receipt of full and final settlement Ex. M.2, application for fresh appointment of the workman Ex. M. 3, appointment letter Ex. M. 4 and another receipt of full and final settlement of the workman Ex. M. 5.

Shri Bharat Partap Singh workman has himself come into the witness-box and denied his signatures on all the aforesaid documents relied upon by the management including his application for appointment. He has also examined an ex-workman Shri Suraj Narain Singh who has, however, expressed his ignorance as to why and how the services of the present workman were terminated by the management.

On the request of the workman, the management was directed to produce certain registers at the time of arguments today and those registers have been brought. The workman has, however, not turned up and his authorised representative Shri M. S. Rathi has also not appeared. No request for adjournment of the case has been received.

I have very carefully gone through the evidence on record, oral as well as documentary and heard the representative of the management. The plea of self-abandonment of service by resignation and receipt of full and final payment of the dues by the workman concerned as raised on behalf of the management and covered by issue No. 1 has been fully sustained. There is the sworn testimony of the Partner Shri Harbans Lal Mehra M.W. 1 which finds full support in the documents produced in the case. I have compared the signatures of this workman against the entries regarding Payment of Wages to him in the Payment of Wages Registers produced today with his disputed signatures on the documents Ex. M. 1 to M. 5 and find the same to be of one and the same person. Strongly enough Shri Bharat Partap Singh has denied his signatures even on his application for appointment Ex. M.1. A perusal of the receipt Ex. M. 2 shows that he had admittedly received his full dues and given up his right of reinstatement or re-employment on 16th June, 1972. Earlier also he had received his dues sometime in 1971 giving up his right of reinstatement and re-employment,—*vide* receipt Ex. M. 5.

The record further shows that he had submitted another application on 6th July, 1972 Ex. M. 3 asking for re-employment and in this application it had been admitted by him in clear and un-ambiguous words that he had submitted his resignation on 16th June, 1972 and received payment of his dues. The management re-employed him on a temporary basis for 3 months,—*vide* order, dated 7th July, 1972 copy Ex. M. 4 which is signed by him. The termination of his services, according to his own showing,—*vide* demand notice, dated 18th October, 1972, was brought about on 7th October, 1972 on completion of this period of temporary employment of three months. The management was, therefore, well within its rights to terminate his services in terms of the very contract of his service.

That disposes of issues Nos. 1 and 2. No other point arises for consideration. In view of my above discussions and for the reasons given, both the issues are decided against the workman concerned holding that the termination of his services was justified and in order and he is not entitled to any relief by way of reinstatement or payment of back wages. The award is made accordingly. There shall be no order as to costs.

Dated the 28th November 1974.

O. P. SHARMA,
Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 2830, dated 2nd December, 1974

Forwarded (four copies) to the Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,

Presiding Officer,
Labour Court, Haryana,
Rohtak.

The 31st December, 1974

No. 44-5Lab-75/1195.—In exercise of the powers conferred by section 87 of the Employees' State Insurance Act, 1948 (Central Act 34 of 1948), the Governor of Haryana hereby exempts the under-mentioned factories engaged in the manufacturing processes from the operation of the said Act with effect from the 1st July, 1974 to the 31st December, 1974, namely :—

1. Redrying unmanufactured leaf tobacco.
2. Rice Milling.
3. Cold storage (with manufacture of ice).
4. Salt manufacture.
5. Oil mills.
6. Ice manufacture.
7. Wool-pressing, either with or without cotton pressing and ginning.

The 3rd January, 1975

No. 147-4Lab-75/1007.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workmen and the management of M/s Hindustan Industries, Faridabad.

**BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD**

Reference No. 142 of 1974

Between

**SHRI DAL CHAND WORKMAN AND THE MANAGEMENT OF M/S HINDUSTAN
INDUSTRIES, PLOT NO. 91, SECTOR 6, FARIDABAD**

Present :—

Shri Sunhari Lal, for the workman.

Shri D. C. Bhardwaj, for the management.

AWARD

The following dispute between the management of M/s Hindustan Industries, Plot No. 91; Sector 6, Faridabad, and its workman Shri Dal Chand was referred for adjudication to this Tribunal.—*vide* order No. ID/FD 844-A-74/32898 dated 20th September, 1974, of the Governor of Haryana, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act 1947.

Whether the termination of services of Shri Dal Chand was justified and in order? If not, to what relief is he entitled?

Usual notices were given to the parties and they have arrived at an amicable settlement as per terms given in the memorandum of settlement Exhibit M-2. Shri Sunhari Lal Secretary INTUC and the authorised representative of the workman concerned has stated that the settlement was arrived at in his presence and he had signed the same along with Shri Dal Chand. He has further stated that a sum of Rs. 300 was paid to Shri Dal Chand as per the voucher Exhibit M-1, in addition to a sum of Rs 92 on account of earned wages and wages for earned leave and that he had signed the voucher along with Shri Dal Chand. According to him the above amounts were paid to the workman before the Labour-Cum-Conciliation Officer, Ballabgarh, who had attested the voucher Exhibit M-1. He has further stated that these payments were received by Shri Dal Chand workman in full and final settlement of his entire claim and he had given up his right of reinstatement or re-employment and there was thus no dispute left between the parties.

In view of the above no further proceedings are called for and a no dispute award is given in terms of the above settlement arrived at between the parties. There shall be no order as to costs.

Dated 18th December, 1974.

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 1801, dated 23rd December, 1974

Forwarded (four copies) to the Secretary to Government Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated the 23rd December, 1974.

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 143-4Lab-75/1009.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer Industrial Tribunal, Faridabad, in respect of the dispute between the workman and the management of M/s (1) Municipality, Yamuna Nagar, (2) Executive Engineer, P.W.D., P. H. Division, Ambala Cantt.

BEFORE SHRI O. P. SHARMA PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA FARIDABAD

Reference No. 13 of 1973

Between

THE WORKMEN AND THE MANAGEMENT OF M/S (1) MUNICIPALITY, YAMUNA NAGAR,
(2) THE EXECUTIVE ENGINEER, P.W.D., PUBLIC HEALTH DIVISION, AMBALA CANTT

Present.—

Shri Swaran Singh, for the workmen.

Shri Subhash Chander and Shri D. S. Rekhy, for the management.

AWARD

By order No. ID/10573, dated 14th March, 1973, of the Governor of Haryana, the following dispute between the Municipality, Yamuna Nagar and Executive Engineer, P.W.D., Public Health Division, Ambala Cantt and their workmen was referred for adjudication to this Tribunal in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947.

Whether the workmen belonging to the Water Works Department mentioned at appendix 'A' should be given the benefit of Provident Fund in accordance with the settlement dated

16th January, 1967? If so, with what details and from which date?

The parties put in their respective pleadings giving rise to the following issues :—

- (1) Whether the present dispute which is based on settlement dated 16th January, 1967, could not legally be referred for adjudication under section 10 (1)(d) of the Industrial Disputes Act, 1947? (on respondent)
- (2) Whether there is misjoinder of parties and causes of action? If so, to what effect? (on respondent No. 1)
- (3) Whether there is no relationship of master and servant between the workmen concerned and respondent No. 1 Municipal Committee from 1st September, 1968? If so, to what effect? (on respondent No. 1)
- (4) Whether the demand in question was first raised on the management and rejected by it before taking up the matter in conciliation? If not, with what effect? (on workmen)
- (5) Whether the present dispute was properly espoused as required by law? If not, with what effect? (on workmen)
- (6) Whether the workmen belonging to the Water works Department mentioned at appendix 'A' should be given the benefit of Provident Fund in accordance with the settlement dated 16th January, 1967? If so, with what details and from which date?

Evidence has been led on both sides, oral as well as documentary. It is, however, not necessary to go into the merits of the case and the issues involved because the workmen have withdrawn their present claim in view of a similar dispute pending between the parties before the High Court for the States of Punjab and Haryana at Chandigarh, as per the statement of their authorised representative Shri Swaran Singh, President of the union.

In view of the above, a no dispute award is given in the present reference but without any order as to costs.

Dated 23rd December, 1974.

O. P. , SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 1808, dated, the _____ 1974.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated 26th December, 1974.

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

The 8th January, 1975

No. 324-4-Lab-75/1005.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workmen and the management of M/s Bata Shoe Co. (P) Ltd, Now Bata India Ltd. Faridabad :—

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, LABOUR COURT,
HARYANA, ROHTAK

Reference No. 216 of 1971

Between

SHRI MUNSHI SINGH AND THE MANAGEMENT OF M/S BATA SHOE COMPANY (P) LTD.,
NOW BATA INDIA LTD, FARIDABAD

Present.—

Shri Darshan Singh, for the workman.

Shri A. N. Pareekh and Shri L. K. Narain, for the management.

AWARD

By order No. ID/FD/16-F-71/32281-85, dated 4th November, 1971, of the Governor of Haryana, the following dispute between the management of M/s Bata Shoe Company (P) Ltd., now Bata India Ltd, Faridabad, and its workman Shri Munshi Singh was referred for adjudication to this Court, in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947.

“Whether the dismissal of Shri Munshi Singh was justified and in order ? If not, to what relief is he entitled ?

Usual notices were given to the parties who put in their respective pleadings giving rise to the following issues :—

- (1) Whether the court cannot proceed with the case because the notice issued to the parties states that the dispute is between the workman and the respondent Company ?
- (2) Whether the reference is bad because the workman submitted his demand notice to the Conciliation Officer and no dispute between the parties was existing ?
- (3) Whether the claim is premature and can not form a subject matter of any industrial dispute because the workman did not take recourse of the grievance procedure as provided under the Standing Orders ?
- (4) Whether the termination of services of Shri Munshi Singh was justified and in order ? If not, to what relief is he entitled ?

Shri Munshi Singh workman concerned has made his own statement besides examining Shri Dharshan Singh, President, Industrial Workers Union, Faridabad, W. W. 2. He has further placed reliance upon certain documents including the list of office bearers of the Union, membership subscription receipts and a letter dated 27th April, 1971, Ex. W. W. 1/1 addressed by him to the management.

On the other hand, the management has examined its Personal Officer Shri L. K. Narain who has proved 8 documents including the charge-sheet Ex-M. 1, reply of Shri Munshi Singh workman Ex. M. 2, enquiry proceedings Ex.M. 3, (13 pages), report of the Enquiry Officer Ex. M. 4, dismissal order dated 21st April, 1971, Ex. M. 5 notice received from the Conciliation Officer Ex. M. 6 along with the demand notice dated 13th July, 1971 Ex. M. 7 and comments filed before the Conciliation Officer Ex. M. 8.

After the close of the evidence on both sides, the case was fixed for arguments. The workman concerned has elected not to appear and his authorised representative is also not present. I have, therefore, heard the learned representative of the management and given a careful thought to the material on record documentary, as well as oral.

Issue No. 1

This issue has not been pressed and is decided against the management.

Issue No. 2

With regard to this issue the law is very well settled. As laid down by Hon'ble the Supreme Court in the oftquoted Sindhu Re-settlement Corporation case, the demand has first to be raised on the management and rejected by it before taking up the matter for conciliation so as to constitute an industrial dispute as defined under section 2(j) of the Industrial Disputes Act, 1947. This necessary requirement of the law is not proved to have been satisfied in the instant case. There is no cogent and convincing evidence to establish that the present workman had approached the management by giving a demand notice or otherwise before taking up the matter for conciliation. On the other hand, it has been proved that the demand notice was given to the management simultaneously with the copies of the demand notice to the Conciliation Officer whereupon conciliation proceedings were initiated. According to the statement of Shri L. K. Narain, Personnel Officer, the demand the subject matter of the present dispute was for the first time communicated to the management by the Conciliation Officer which was not sufficient compliance of the rule of law as laid down in the aforesaid authority. In other words, no industrial dispute exists between the parties which could validly be referred for adjudication to this court. The issue is accordingly decided in favour of the management and against the workman.

Issue No. 3

The burden of this issue was also on the workman concerned. But on a careful scrutiny of the evidence on record, I am constrained to observe that he has failed to discharge the same. The Certified Standing Orders of the Company provide a Grievance Procedure for the settlement of such disputes, as laid down in clause 32 before taking recourse to legal proceedings. This provision in the Certified Standing Orders may usefully be re-produced as under.

“Clause 32 Grievance Procedure”

If a workman desires to dispute or feels dissatisfied from any order passed against him by the Company or by the Personnel Welfare Officer under these Standing Orders and Rules other than in respect of an order arising out of any complaint made by him, the following procedure will be adopted :—

- (a) The workman will be entitled to appeal in writing to the Works Committee, if in existence, within 5 days of the receipt of such orders. If the Works Committee arrives at any unanimous decision it will make recommendation to the Company to implement such unanimous recommendations or decision will be binding on the workman and no further appeal shall be lie.
- (b) If however, no unanimous recommendation could be made by the Works Committee, in that event the workman will be entitled to appeal to the Chairman of the Company within one month from the receipt of the intimation from the Works Committee. On receipt of the Chairman's decision, if the workman will feel dis-satisfied, in that event within one month from the date of receipt of decision of the Chairman, through his union would be entitled to take recourse to such remedy as may be available under the Industrial Disputes Act of 1947 to redress his grievance.

Admitted, the present workman had not followed this Grievance Procedure and that being so his claim premature and cannot be the subject matter of an industrial dispute which could validly be referred for adjudication to the Labour Court/Tribunal as contemplated under section 10 of the Industrial Disputes Act. The issue is accordingly decided against him and in favour of the management.

Issue No. 4

On this issue, regarding the merits of the case also, Shri Munshi Singh, workman concerned has nothing to say. The management has succeed in establishing from documentary evidence that he was found guilty of the charge of mis-conduct by leaving the factory premises without permission during working hours. In the preliminary enquiry held into the above said charge, he had admitted his guilt in clear words as per his own letter dated 27-4-71 addressed to the Factory Manager E. W.W. 1/1 on record. In the circumstances, the management was perfectly justified in taking the impugned action of dismissal from service against him and nothing has been brought on record by Shri Munshi Singh to hold to the contrary. Issue No. 4 is accordingly decided against him and in favour of the management.

In view of my above findings on the issues involved, no industrial dispute existed between the parties which could validly be referred for adjudication to this court. Even otherwise, the dismissal from service of the present workman being justified and in order, he is not entitled to any relief by way of reinstatement or payment of back dues. The award is made accordingly but without any order as to costs.

O. P. SHARMA,

Dated 24th December, 1974.

Presiding Officer,
Labour Court, Haryana, Rohtak.

No. 5, dated 3rd January, 1975.

Forwarded (four copies) to the Secretary to Government of Haryana, Labour & Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,

Presiding Officer,
Labour Court, Haryana, Rohtak.

M. SETH, Com. Secy.